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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,182	12/02/2003	Brian W. Brandner	2681.3184.001 (588AW)	2575

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EXAMINER

BRADEN, SHAWN M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 09/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/726,182	Applicant(s) BRANDNER ET AL.	
	Examiner Shawn M. Braden	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 and 22-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 and 13-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 and 23-55 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims 1-8 & 13-21 drawn to an invention nonelected with traverse in Paper No. 10/726,182. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. Applicant's arguments have been reviewed and considered; yet examiner upholds the decision to restrict the application. Applicant fails to point out which classes required to search the method would necessarily be required to search the product claim.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 23, 2, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Potter (USPN 6,860,398).

4. With respect to claim 23, Potter shows a shell (50) defining an interior for holding fuel and having an opening (45) for receiving fuel into the interior;

A fill nipple having an outer surface (22) and an inner surface (42) defining a passage (41) extending between a pair of generally opposed ends of the fill nipple with one end attached to the shell (50) with the passage (41) aligned with the opening allowing fuel to flow through the passage and into the cavity, the fill nipple has an inner

layer (42) of material forming the inner surface of the fill nipple, an outer layer (20) of a material forming the outer surface of the fill nipple, a vapor barrier layer (51) between the inner and outer layers (col. 4 ln. 52), wherein the vapor barrier layer (51) overlies the fuel tank along the entire extent of the overlap of the fill nipple and shell (50) providing two vapor barrier layers along the entire extent of the overlap of the fill nipple and shell (50).

With respect to claim 24, Potter shows the nipple is constructed and arranged to carry at least a portion of two separate fuel system components, the fuel line and the fuel tank are the two components.

With respect to claim 25, Potter shows one end includes a radially inwardly extending flange (108)(fig. 9) and the another end includes a radially outwardly extending flange (49).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potter (USPN 6,860,398) in view of Kitamura (USPN 5,951,059).

6. Potter discloses the invention substantially as claimed. Potter shows a shell (50) defining an interior for holding fuel and having an opening (45) for receiving fuel into the interior;

A fill nipple having an outer surface (22) and an inner surface (42) defining a passage (41) extending between a pair of generally opposed ends of the fill nipple with one end attached to the shell (50) with the passage (41) aligned with the opening allowing fuel to flow through the passage and into the cavity, the fill nipple has an inner layer (42) of material forming the inner surface of the fill nipple, an outer layer (20) of a material forming the outer surface of the fill nipple, a vapor barrier layer (51) between the inner and outer layers (col. 4 ln. 52), and a pair of adhesive layers with one adhesive layer disposed between the outer layer (20) and the vapor barrier layer (51) and the other adhesive layer disposed between the inner layer (42) and the vapor barrier layer (51) (fig.1) (col. 1 ln. 44-61).

However Potter does not disclose a cover connected to the shell and the fill nipple.

Kitamura teaches a cover (31) connected to the shell (B) and the fill nipple (21) in the same field of endeavor for the purpose of sealing the connection.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the cover of Kitamura to the container of Potter in order to add another layer of protection to leaks.

With respect to claim 9, the cover of Kitamura meets the claimed structure and recitation of a vapor barrier.

With respect to claim 11, Potter shows a plastic weld joint attaches the flange to the shell and Kitamura further teaches the cover is attached to the flange.

7. Claims 9,11 and12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stangier (US Pub # 20040124567) in view of Kitamura (USPN 5,951,059).

Stangier discloses the invention substantially as claimed. However Stangier does not disclose a cover connected to the shell and the fill nipple.

Kitamura teaches a cover (31) connected to the shell (B) and the fill nipple (21) in the same field of endeavor for the purpose of sealing the connection.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add the cover of Kitamura to the container of Stangier in order to add another layer of protection to leaks.

With respect to claim 11, Stangier as combined above shows the one end is defined in part by a radially outwardly extending flange that presents at least a portion of the inner surface (4) for attachment to the shell (5)(fig.1) and the cover is attached to the flange

8. With respect to claim 12, Stangier shows plastic weld joint attaches the flange to the shell (5) (fig.1) and the cover would overlie the weld joint.

Response to Arguments

9. Applicant's arguments with respect to claims 9-12& 22-25 have been considered but are moot in view of the new ground(s) of rejection.

Allowable Subject Matter

10. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawn M. Braden whose telephone number is (571)272-8026. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

smb


JES F. PASCUA
PRIMARY EXAMINER